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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,761	09/22/2003	Joseph Reid Henrichs	020402CON	1368

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KIRKPATRICK & LOCKHART LLP
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EXAMINER

VY, HUNG T

ART UNIT PAPER NUMBER

2828

DATE MAILED: 06/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/667,761

Applicant(s)

HENRICH, JOSEPH REID

Examiner

Hung T Vy

Art Unit

2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 04/13/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Acknowledges

1. Receipt is acknowledged of the following items from the Applicant.

Information Disclosure Statement (IDS) filed on 04/13/2004. The references cited on the PTOL 1449 form have been considered.

Drawings

2. The drawings are objected to for the following reasons.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show first mirror as described in the specification. In the figure 9 shows the first mirror is 23 as flat reflector or quarter mirror stack but in claim 10 recites the first reflector assembly includes a polyhedral prim waveguide. This is the second reflector in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

Specification

3. The specification has been checked to the extent necessary to determine the presence of possible minor errors. However, the applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 2-18 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1,4, 33, 42, 48 and 56 of U.S. Patent No. 6,625,195. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in present applicant are similar to claims in U.S. Patent as shown.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-9 and 18 are rejected under 35 U. S. C. § 102 (b) as being anticipated by Damen, U.S. patent No. 5,513,203.

Regarding claims 2-9, Damen discloses a semiconductor laser cavity, comprising: first (312) and second reflector (312) assemblies (See fig. 4); the non-linear semiconductor material (see column 4, line 17-25) includes at least three semiconductor active gain regions (See column 4, line 23-25).

With respect to claim 18, the methods of intracavity four-wave mixing of photonic radiation, since Damen et al. disclose the product, it is inherent a product by process for performing the method is recited in the claims.

Citation of Pertinent References

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The patent to Valley et al. disclose Transient energy Self-pumped conjugator and Method, U.S. Patent No. 5,023,477.

The patent to Pankove discloses Surface Emitting Semiconductor Laser, U.S. Patent No. 5,263,041.

The patent to Boucar et al. disclose Vertical Cavity Apparatus With Tunnel Junction, U.S. Patent No. 6,493,371.

The patent to Thornton discloses Multiwavelength Laterally-Injecting-Type Lasers, U.S. Patent No. 5,319,655.

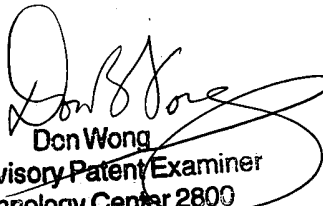
Conclusion

6. When responding to the office action, Applicants are advised to provide the examiner with the line numbers and page numbers in the application and/or references cited to assist the examiner to locate the appropriate paragraphs.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hung Vy whose telephone number is (571) 272-1954. The examiner can normally be reached on Monday-Friday 8:30 am - 5:30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Hung T. Vy
Art Unit 2828
May 20, 2004


Don Wong
Supervisory Patent Examiner
Technology Center 2800